

201508097
Michael Dicecco

On September 19, 2015, an individual in Staten Island called the police and stated that two teenagers had flashed a gun at him. One officer responded, spoke to the man, and began to canvas for the teenagers. Another pair of officers saw two teenagers, one of whom was wearing a shirt that matched the description of one of the teenagers with a gun. The two boys went into the building as the officers approached, and the officers followed and called other officers, including Sergeant Dicecco. The officers entered the apartment of the boy whose clothing did not match the description of either teenager, brought him out for the original victim to identify, and once the victim stated he was not one of the assailants, released him. The other boy was found inside the building, and a toy gun was found inside the building stairwell. This boy was arrested.

In his CCRB interview, Sergeant Dicecco stated that he had responded to the victim's call and was canvassing with him, that the victim had said the assailants fled towards the building where the boys were found, and positively identified the boys as the assailants before they went inside.

Instead, the officer who met the man, and the man himself, confirmed that they drove separately and only arrived at the scene after the boys had gone inside.

The CCRB found that Sergeant Dicecco's search of the apartment and the boy who did not match any description was improper, and that he had made a false official statement when he stated that the man had identified the boy as his assailant before he followed him.

The NYPD issued a Command Discipline A to Sergeant Dicecco for the incident.

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jaimie Vernon	Team: Squad #4	CCRB Case #: 201508097	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 09/19/2015 11:45 PM	Location of Incident: [REDACTED]	Precinct: 121	18 Mo. SOL 3/19/2017	EO SOL 3/19/2017	
Date/Time CV Reported Thu, 09/24/2015 11:26 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 09/24/2015 11:26 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. Officers			121 PCT
2. SGT Michael Dicecco	03303	§ 87(2)(b)	121 PCT
3. POM Jose Tabora	17232	§ 87(2)(b)	121 PCT
4. POM Michael Venditti	18781	§ 87(2)(b)	121 PCT
5. POM Genaro Barreiro	00308	§ 87(2)(b)	121 PCT
6. POM Besim Pelinku	29412	§ 87(2)(b)	121 PCT
7. An officer			121 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Timothy Magliente	04087	§ 87(2)(b)	121 PCT
2. POM Andrew Lassen	03267	§ 87(2)(b)	121 PCT
3. POM Vincent Mevo	15812	§ 87(2)(b)	121 PCT
4. POM Nicholas Gentile	11043	§ 87(2)(b)	121 PCT

Officer(s)	Allegation	Investigator Recommendation
A . SGT Michael Dicecco	Abuse of Authority: Sgt. Michael Dicecco drew his gun at § 87(2)(b) Apt. 2B, in Staten Island.	A . § 87(2)(b)
B . POM Jose Tabora	Abuse of Authority: PO Jose Tabora drew his gun at § 87(2)(b) Apt. 2B, in Staten Island.	B . § 87(2)(b)
C . POM Genaro Barreiro	Abuse of Authority: PO Genaro Barreiro drew his gun at § 87(2)(b) Apt. 2B, in Staten Island.	C . § 87(2)(b)
D . Officers	Abuse of Authority: Officers drew their guns at § 87(2)(b) Apt. 2B, in Staten Island.	D . § 87(2)(b)
E . SGT Michael Dicecco	Abuse of Authority: Sgt. Michael Dicecco entered § 87(2)(b) Apt. 2B, in Staten Island.	E . § 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
F . SGT Michael Dicecco	Abuse of Authority: Sgt. Michael Dicecco stopped § 87(2)(b) .	F . § 87(2)(g)
G . POM Besim Pelinku	Discourtesy: PO Besim Pelinku spoke discourteously to § 87(2)(b) .	G . § 87(2)(g)
H . SGT Michael Dicecco	Abuse of Authority: Sgt. Michael Dicecco refused to provide his name to § 87(2)(b) .	H . § 87(2)(g)
I . POM Jose Tabora	Abuse of Authority: PO Jose Tabora refused to provide his name to § 87(2)(b) .	I . § 87(2)(g)
J . POM Genaro Barreiro	Abuse of Authority: PO Genaro Barreiro refused to provide his name to § 87(2)(b) .	J . § 87(2)(g)
K . An officer	Abuse of Authority: An officer refused to provide his name to § 87(2)(b) .	K . § 87(2)(g)
L . An officer	Abuse of Authority: An officer damaged § 87(2)(b) property.	L . § 87(2)(g)
M . SGT Michael Dicecco	Other: There is evidence suggesting Sgt. Michael Dicecco provided a false official statement in violation of PG 203-08	M . § 87(2)(g)
§ 87(4-b), § 87(2)(g)		

Case Summary

On September 24, 2015, the CCRB received the complaint of § 87(2)(b) who called the Intake line. On October 6, 2015, § 87(2)(b) and her son, § 87(2)(b) provided in-person statements (Board Review 01 and Board Review 02). In the interests of brevity and clarity, their statements and the investigation's findings are merged into the following narrative:

On September 19, 2015, around 11:45PM, § 87(2)(b) called 911 to report that two juvenile black males pointed black pistols at him and his uncle, § 87(2)(b) in front of § 87(2)(b)'s home at § 87(2)(b) in Staten Island. § 87(2)(b) described one of the juveniles as wearing a white T-shirt and shorts, and the other as wearing a blue Yankees T-shirt with the name of Derek Jeter on the front and the number "2" in the back (Board Review 03). This information was relayed in a radio run (Board Review 04). § 87(2)(b) left § 87(2)(b)'s home shortly after the call to find the suspects himself (Board Review 05).

PO Michael Venditti of the 121st Precinct stationhouse responded first to the call and found § 87(2)(b) in front of his home. He asked § 87(2)(b) to get into his car, and PO Venditti canvassed the surrounding area to look for the suspects (Board Review 06).

As PO Venditti canvassed the area with § 87(2)(b) § 87(2)(b) his wife § 87(2)(b) and their mutual friend § 87(2)(b) stood in front of their apartment building at § 87(2)(b) some four blocks away from § 87(2)(b) § 87(2)(b) § 87(2)(b) old on the date of the incident, was wearing a blue Yankees T-shirt with Derek Jeter's name on the front and the number "2" on the back. Seeing two marked police cars pull up to the building, § 87(2)(b) § 87(2)(b) and § 87(2)(b) went into the building to go into their respective apartments.

Shortly after § 87(2)(b) went into his apartment, § 87(2)(b) which he shares with his mother and his cousin, § 87(2)(b) he heard loud banging and kicking at the door and shouts of "Open the door!" § 87(2)(b) acquiesced and found eight plainclothes officers outside, all with their guns drawn, pointed downward (**Allegations A, B, C, and D**). A few of these officers, whom the investigation found included Sgt. Michael Dicecco, PO Jose Tabora, and PO Genaro Barreiro of the 121st Precinct Anti-Crime team, entered the apartment (**Allegation E**). The officers removed § 87(2)(b) from the apartment and stopped him (**Allegation F**). As § 87(2)(b) waited in the hallway, PO Besim Pelinku scolded him for taking so long to open the door, asking him, "What the fuck is wrong with you?" (**Allegation G**).

§ 87(2)(b) who was sleeping in her bedroom, was awoken by a commotion at her bedroom door and shouts of "Let me in!" She opened her door and found four plainclothes officers with guns drawn, all of whom entered her bedroom (**subsumed within Allegation E**). She saw one of these officers open her bedroom closet, which had been closed.

After asking the four officers multiple times to leave, § 87(2)(b) asked them for their names and their shield numbers. However, none responded to her request (**Allegations H, I, J, K**). These officers asked § 87(2)(b) and her niece § 87(2)(b) to leave the apartment, and they obeyed.

Sgt. Dicecco and PO Barreiro then left the apartment and found § 87(2)(b) hiding behind the steps of the third floor landing. They apprehended him without incident and took him outside the building. The officers returned to the third floor shortly afterward to retrieve the imitation pistol § 87(2)(b) had left behind (Board Review 07 and Board Review 08).

§ 87(2)(b) was taken also outside the building, where he was shown to § 87(2)(b) who remained in PO Venditti's car. When § 87(2)(b) told PO Venditti that he did not recognize § 87(2)(b) as being one of the suspects, PO Venditti indicated this to the other officers, and § 87(2)(b) was released from custody. § 87(2)(b) was then shown to § 87(2)(b) and when § 87(2)(b) identified him as one of the suspects, § 87(2)(b) was arrested for § 87(2)(b) (Board Review 09). After § 87(2)(b) was arrested, the officers began leaving the scene.

When § 87(2)(b) and § 87(2)(b) returned to their apartment, they noticed that their front door of their apartment had been damaged and attributed this to the actions of the officers (**Allegation L**). Neither § 87(2)(b) nor § 87(2)(b) were summonsed or arrested as a result of this incident. The other suspect was never identified or found.

This case was originally submitted for closing near the 90-day benchmark. However, upon review, it was established that additional officer statements were needed, which ultimately identified the subject officer of **Allegation G** and provided further details pertaining to the pursuit of § 87(2)(b) causing an additional one-month delay. This case was discussed with ADEDI Roger Smith and with ADEDI Brian Krist.

Video Footage

The investigation subpoenaed video footage from § 87(2)(b) from the building's management company, § 87(2)(b). However, when investigators from the Field Team attempted to pick up the footage on October 19, 2015, they found that all footage before September 21, 2015 had been automatically erased (Board Review 10).

Mediation, Civil and Criminal Histories

This case is unsuitable for mediation because of property damage. § 87(2)(b) has no criminal history (Board Review 11). § 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Civilian and Officer CCRB Histories

- § 87(2)(b)
- This is the first and only CCRB complaint for § 87(2)(b)
- Sgt. Dicecco has been a member of the service for 22 years. In case number 201411625, a stop allegation was substantiated against him, for which Command Discipline A was recommended. In case number 201501137, he was found to have searched a person improperly after conducting an exonerable frisk. Formalized training was recommended. The NYPD declined to discipline him for either allegation. Sgt. Dicecco is currently a subject officer in case number 201507960, in which he is alleged to have damaged a door, to have refused to provide his name, and to have prevented a civilian from legitimately recording the incident. That case has just been closed and awaits review by a panel.
- PO Tabora has been a member of the service for 8 years. In case number 201411625, a Question allegation was substantiated against him, for which Command Discipline A was also recommended. However, the NYPD declined to prosecute him. PO Tabora is currently a subject officer in case number 201506920, in which he is alleged to have used excessive force and to have used profanity. The case is under investigation.
- PO Barreiro has been a member of the service for four years, and there are no substantiated allegations against him. He is currently a subject officer in case number 201506920, in which he is alleged to have entered a residence and to have used profanity. The case is under investigation. § 87(2)(b)
- PO Pelinku has been a member of the service for eight years, and there are no substantiated allegations against him. In case number 201009907, a Discourtesy allegation against him was Unfounded. In case number 201208891, a Discourtesy allegation was unsubstantiated.
- PO Venditti has been a member of the service for three years, and there are no substantiated allegations against him. § 87(2)(g)

Potential Issues

The investigation has tried to obtain statements from § 87(2)(b), § 87(2)(b), and § 87(2)(b) but neither has responded to the CCRB's contact attempts. A canvass of the building revealed a possible witness, § 87(2)(b), who is § 87(2)(b)'s and § 87(2)(b)'s neighbor. However, § 87(2)(b) has also not responded to the CCRB's contact attempts (see Investigative Actions).

In an attempt to identify one of the subject officers and to answer follow up questions, § 87(2)(b) was contacted multiple times by phone, mail, and email in order to schedule a photo array. However, § 87(2)(b) has not responded to any of these attempts.

Findings and Recommendations

Explanation of Subject Officer Identification

There are various discrepancies across the civilian and officer statements in regard to the number of officers who entered the apartment and the number of officers who drew their guns, which the investigation had to determine by a preponderance in the analysis of **Allegations A, B, C, D, and E**. § 87(2)(b) alleged that she saw about ten officers inside her apartment before she was asked to leave. Of these officers, four plainclothes officers entered § 87(2)(b)'s bedroom. These four officers had their guns drawn. The rest, a mixture of uniformed and plainclothes officers, were in her hallway and living room (Board Review 01).

§ 87(2)(b) alleged that, when he opened the apartment door, he saw eight plainclothes officers, all with their guns drawn. Of these eight, three entered the apartment and five remained in the hallway. § 87(2)(b) did not see any uniformed officers enter the apartment, but about twelve uniformed officers entered the building and went straight to the third floor. These officers did not have their guns drawn (Board Review 02).

Of the officers interviewed, only four – Sgt. Dicecco, PO Tabora, PO Barreiro, and PO Pelinku – stated that they went to the second floor in hopes of apprehending either § 87(2)(b) or § 87(2)(b). Sgt. Dicecco, PO Tabora, and PO Barreiro all admitted to entering the apartment, with PO Pelinku remaining in the hallway. All the officers denied having their guns drawn. Sgt. Dicecco stated that backup officers who arrived after them also entered the apartment, but he could not identify them or say how many there were (Board Review 07). Both PO Tabora and PO Barreiro did not recall any other officers entering the apartment.

§ 87(2)(b) also alleged that, as he was detained in the hallway after some plainclothes officers entered his apartment, one of the officers who remained outside told him, “What the fuck is wrong with you?” § 87(2)(b) described this officer as a white male in his thirties standing about 6’2” (his height), with a muscular build and short “spiky” brown hair (Board Review 02).

PO Pelinku was the only officer interviewed who admitted to interacting with § 87(2)(b) in the hallway. He did not see any other officers in the hallway interact with § 87(2)(b) (Board Review 13). PO Pelinku, a white male with black hair, was § 87(2)(b) old on the date of the incident. He is standing 6’1”, weighs 225lbs, and while his hair is not spiky, it is not flat along his head. Because of PO Pelinku’s admission of an interaction with § 87(2)(b) and his general resemblance to the subject officer, **Allegation G** is pled against him.

Allegations Not Pleaded

- **Abuse – Officers entered and searched § 87(2)(b) in Staten Island.**

Abuse – Officers stopped § 87(2)(b)

It is undisputed that multiple officers, including Sgt. Dicecco, PO Tabora, and PO Barreiro, entered § 87(2)(b)'s apartment, though there are discrepancies as to how many officers entered, as shown above. As Sgt. Dicecco was the Anti-Crime sergeant, supervising PO Tabora and PO Barreiro and, by his own admission, took the lead in the entry and the stop of § 87(2)(b). **Allegations E and F** are pled against him.

Allegation A – Abuse of Authority: Sgt. Michael Dicecco drew his gun at

§ 87(2)(b) in Staten Island.

Allegation B – Abuse of Authority: PO Jose Tabora drew his gun at

§ 87(2)(b) in Staten Island.

Allegation C – Abuse of Authority: PO Genaro Barreiro at § 87(2)(b) in Staten Island.

Allegation D – Abuse of Authority: Officers drew their guns at

§ 87(2)(b) in Staten Island.

As stated above, § 87(2)(b) alleged that the eight officers who arrived at their apartment had their guns drawn, pointed downward and not at any particular person or object upon entry (Board Review 02). § 87(2)(b) who was in her bedroom when the officers entered, asserted that four officers entered her apartment had their guns drawn, also pointed downward and not at any particular person or object (Board Review 01).

The officers who admitted to entering the apartment, Sgt. Dicecco, PO Tabora, and PO Barreiro, either denied having their guns drawn or did not remember if they drew their guns during this incident (Board Review 07, Board Review 08, Board Review 14). Neither they nor any of the other officers interviewed saw any officers draw their guns.

§ 87(2)(g)

Allegation E – Abuse of Authority: Sgt. Michael Dicecco entered

§ 87(2)(b) in Staten Island.

It is undisputed that officers entered § 87(2)(b) after receiving a radio run generated from § 87(2)(b)'s call to 911. § 87(2)(b) reported that two juvenile black males, one wearing a white shirt and shorts, and the other wearing a blue Yankees shirt with Derek Jeter's name on it, waved black pistols at his and his uncle, § 87(2)(b) in front of § 87(2)(b)'s home at § 87(2)(b) (Board Review 03). § 87(2)(b) reported that he saw the two juveniles

run in the direction of Walker Street. The radio run, event § 87(2)(b) broadcasted § 87(2)(b) descriptions (Board Review 04).

The sequence of events that occur after § 87(2)(b) placed his call to 911 is under dispute amongst both the civilians and the officers:

§ 87(2)(b) stated that, when he was speaking to § 87(2)(b) outside the building, they saw two marked patrol cars drive up to the building. Suspicious, the friends walked, but did not run, into the building, where they returned to their respective apartments. Shortly after § 87(2)(b) went inside § 87(2)(b) he heard several loud bangs, kicks, and shouts at the apartment door. When he opened the door, he was asked to come out by multiple officers in the hallway without any explanation. After he was taken out and secured, at least three officers entered the apartment. § 87(2)(b) could not see what actions the officers had performed once he had been removed from the apartment (Board Review 02). § 87(2)(b) did not say what he was wearing at the time, and he has not responded to the investigations multiple attempts to have him clarify this matter. However, § 87(2)(b) was § 87(2)(b) old on the date of the incident and was 6'2".

§ 87(2)(b) stated that she had been sleeping when officers first entered the apartment but was awoken by banging at her bedroom door. She opened the door and found four plainclothes officers, all of whom entered her bedroom and offered no explanation as to why they were there. She saw one officer open the closet in her bedroom, but found nothing. She saw other officers enter the other two bedrooms in the apartment, and would see after the incident that the closets in these bedrooms were also opened when they had been closed (Board Review 01). She stayed briefly in the living room, but was then asked by the officers to leave the apartment. She found § 87(2)(b) outside the building, detained by officers.

§ 87(2)(b) also stated that he was speaking to § 87(2)(b) outside the building and went inside after seeing a police car (Board Review 15). He went up to the third floor and heard several officers banging on § 87(2)(b)'s apartment door. He did not see the officers enter the apartment, but caught a glimpse of them standing in the hallway. These officers saw him on the third floor and called for him to come downstairs. § 87(2)(b) obeyed and was apprehended by an officer matching Sgt. Dicecco's description. § 87(2)(b) did not dispute his arrest and did not wish to make any complaints about the officers' conduct.

PO Tabora and Sgt. Dicecco both stated that they entered the apartment to look for a potential suspect, identified as § 87(2)(b) whom they both saw enter the apartment shortly before they did. PO Tabora stated that he and Sgt. Dicecco, after receiving the radio run, first arrived at the complainant's home and saw the complainant speaking with PO Venditti and his partner. Neither PO Tabora nor Sgt. Dicecco spoke to the complainant. PO Venditti and his partner asked the complainant to get into their car so that they could canvass the area for the two suspects. PO Tabora and Sgt. Dicecco followed behind that car (Board Review 14).

The cars were driving along § 87(2)(b) for the canvass when, in front of § 87(2)(b) the officers observed two black males, including a juvenile wearing a Derek Jeter shirt. The other

male looked to be in his early twenties. PO Tabora did not recall what the older male wore. The complainant identified these two males as the suspects. The males began to walk into the building, apparently without having seen the officers. PO Tabora, Sgt. Dicecco, PO Venditti, and PO Venditti's partner all exited their cars so that they could approach the males, but PO Tabora was unsure if the officers asked the males to stop. PO Tabora saw the older male go into an apartment on the second floor. The officers knocked at the door for a while, and someone, not the male they were looking for, opened the door. The officers entered the apartment without giving an explanation or asking for permission to look for the other male, eventually finding him. The officers were in the apartment for only a few minutes, and searched only those open areas, such as a room or a bed, where a person could conceivably hide.

§ 87(2)(g) when he and PO Tabora arrived at the complainant's home, they found the complainant speaking with PO Venditti and his partner. Sgt. Dicecco and PO Tabora also spoke with the complainant, who confirmed that he saw the two males run toward § 87(2)(b). The complainant got into PO Venditti's car, and Sgt. Dicecco and PO Tabora followed behind them (Board Review 07).

When they arrived at § 87(2)(b) the officers found two black males, including one wearing a Derek Jeter shirt, standing in front of the building. The complainant identified these males as the suspects and, upon seeing the officers, both males ran into the building. Sgt. Dicecco and PO Tabora, followed by PO Venditti and his partner, ran into the building after the males in hot pursuit. The officers ordered them to stop, but the suspects continued to run. Sgt. Dicecco saw the suspect in the Derek Jeter shirt run up to the third floor, but lost track of where he went. He and the other officers saw the other male run into an apartment on the second floor. The male shut the door in the officers' face just as they approached the apartment door. After the officers knocked for a while, an older male opened the door. After the situation was explained to him, the older male allowed the officers inside the apartment. Sgt. Dicecco, PO Tabora, and backup officers who arrived at the location went into the apartment. Sgt. Dicecco walked into a back bedroom and found the potential suspect standing in front of the closet. Sgt. Dicecco removed the suspect from the apartment, and the other officers left immediately after him. Immediately after leaving the apartment, he saw the suspect in the Derek Jeter shirt hiding behind the stairs on the third floor. He went upstairs and apprehended that suspect, finding an imitation pistol in his hands.

PO Pelinku and PO Barreiro, also assigned to Anti-Crime, § 87(2)(g) After receiving the radio run, they canvassed the area of § 87(2)(b) in search of the suspects. By chance, they turned along § 87(2)(b). In front of § 87(2)(b) they observed two males and a female talking. Noticing that one of the males wore a Yankees shirt with Derek Jeter's name on it, they exited the car. Upon seeing these officers, all three civilians ran into the building. PO Pelinku and PO Barreiro chased the suspects inside the building and ordered them to stop, but lost track of the male in the Derek Jeter shirt. They saw the other male and the female run into an apartment on the second floor. The officers then knocked on the door, and were soon met up with Sgt. Dicecco and PO Tabora. Neither officer came into

contact with the original complainant, and neither saw the complainant or knew where he was until the show-up.

PO Pelinku stated that a male opened the door and, after it was explained that the officers were looking for potentially armed suspects, the male allowed them permission to enter the apartment. PO Pelinku remained in the hallway (Board Review 13).

PO Barreiro stated that a female opened the door. While the officers attempted to explain the situation, the female was too angry with the officers to listen to what they were saying. PO Barreiro, PO Tabora, and Sgt. Dicecco entered the apartment without obtaining permission from this female. PO Barreiro stepped into the living and did a quick visual canvass of the area. Not finding the suspect in the Derek Jeter shirt in the living, he exited the apartment (Board Review 08).

PO Venditti, assigned to Conditions, denied entering the apartment and did not know that any officers entered any apartment in response to the radio run (Board Review 06). He explained that he was the first officer to respond at the complainant's home at § 87(2)(b) and did so alone, as his partner, PO Lassen, remained at the stationhouse to process a summons. He had the complainant get into his car, and they canvassed the area for the suspects. When they arrived at § 87(2)(b) they saw multiple officers inside and around the building.

PO Venditti entered the building briefly and remained on the first landing. He remembered seeing Sgt. Dicecco upstairs, but did not remember where exactly the sergeant was. He then returned to his vehicle to wait for the suspect to be apprehended and for the show-up to be conducted.

Sgt. Magliente, PO Lassen, PO Mevo, and PO Gentile had arrived at the location after the entry and remained outside the building (Board Review 16, Board Review 17, Board Review 18, Board Review 19).

None of the officers who came into contact with § 87(2)(b) remembered what he wore or what he looked like, and none stated that they believed that he matched the description of the second suspect, the one wearing a white shirt and shorts. Moreover, none of the officers who were shown § 87(2)(b)'s picture during their interviews recognized him.

§ 87(2)(b) who was the complainant who canvassed the area with PO Venditti, stated that when he was driven over to a building on § 87(2)(b) he noticed about two males standing in front of the building. He did not get a good look at them, and did not identify any of these males as the suspects. However, he saw the males run inside the building, and the officers he was with immediately left the car to follow the males (Board Review 20).

In *People v. McBride*, the New York State Court of Appeals ruled that, without a warrant, officers may only enter a home to take a suspect into custody if any one of a number of exigent circumstances are present, including but not limited to the amount of evidence there is that the suspect is in the residence, the amount of certainty the officers had that the suspect committed the

crime, the gravity of the offense that occurred, the possibility that the suspect is armed, and the likelihood that the suspect will escape unless they are swiftly apprehended (Board Review 21).

In *U.S. vs. Santana*, the U.S. Supreme Court ruled that warrantless entries can also be justified if the officers were in hot pursuit of the suspect whom they have strong reason to believe committed a crime. If the arrest action begins when the suspect is in a public space, the suspect cannot move into a private space in order to avoid being arrested (Board Review 22).

§ 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] § 87(2)(b) did not identify § 87(2)(b) as one of the suspects either when he stood in front of the building or when he was later brought out in the show-up. None of the officers recalled what § 87(2)(b) looked like and their statements to the CCRB affirmed that § 87(2)(b) was stopped based on his interaction with § 87(2)(b) who matched the description based on his Derek Jeter shirt, and his entering the building at the same time as the officers' approach.

§ 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

§ 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Allegation F – Abuse of Authority: Sgt. Michael Dicecco stopped § 87(2)(b)

It is undisputed that § 87(2)(b) was detained by officers after he was removed from the apartment and presented to § 87(2)(b) in a show-up identification. § 87(2)(b) was released after § 87(2)(b) stated that he was not one of the suspects. § 87(2)(b) had not been handcuffed during his detainment.

Sgt. Dicecco and PO Tabora stated that they removed a male from the apartment that they believed was one of the suspects in the gun run. They both stated that the complainant in PO Venditti's car identified the two males standing in front of § 87(2)(b) as the two suspects (Board Review 07 and Board Review 14).

PO Barreiro stated that, when the female opened the door to the apartment after the officers knocked for a while, he saw the male and the female he had seen in front of the building inside the living room. He asked them to come outside, and they obeyed. After they came out, he, Sgt. Dicecco, and PO Tabora entered the apartment to look for the male in the Derek Jeter shirt (Board Review 08).

PO Pelinku stated that a male opened the door and allowed the officers permission to enter. Shortly after PO Barreiro, Sgt. Dicecco, and PO Tabora entered the apartment, he saw the male and female he had seen in front of the building come out. He did not know how they were removed from the apartment. The male and the female waited with PO Pelinku in the hallway until the male in the Derek Jeter shirt was found (Board Review 13)

However, as shown above, § 87(2)(b) stated that, when he was driven up to § 87(2)(b) he did see people standing in front of the building. However, he did not get a very good look at them and could not tell whether they were or were not the suspects who had accosted him and § 87(2)(b). He saw that the officers who had driven exited the vehicle as soon as they drove up to § 87(2)(b) without any input from him (Board Review 20).

In *People v. McLoyd* (2012), the New York State Supreme Court ruled that officers cannot detain a bystander merely because the bystander was seen interacting with a suspect that those officers did have probable cause to arrest. Furthermore, officers must also have additional information to justify having a reasonable suspicion of the bystander other than the information they have that provides them with a reasonable suspicion that the suspect is involved in criminal activity (Board Review 23).

In *People v. Thompson*, the New York State Supreme Court ruled that officers must have a reasonable suspicion that a suspect committed a crime in order to detain the suspect and to present the suspect in a show-up identification (127 A.D.3d 658; 2015). If the officers lack reasonable suspicion, they may not pursue the suspect if the suspect decides to flee the scene (Board Review 24).

§ 87(2)(g)
[REDACTED]

§ 87(2)(b) Both § 87(2)(b) and PO Tabora noted that § 87(2)(b) was clearly older than § 87(2)(b) and the unidentified suspect (Board Review 20 and Board Review 14).

§ 87(2)(g)

§ 87(2)(g)

Allegation G – Discourtesy: PO Besim Pelinku spoke discourteously to § 87(2)(b)

§ 87(2)(b) alleged that as he was detained in the second floor hallway after being removed from the apartment, a plainclothes officer scolded him for taking so long to open the door, asking him, “What the fuck is wrong with you?” (Board Review 02).

PO Pelinku denied making this remark or using any profanity toward § 87(2)(b) (Board Review 13). No other officers admitted to this remark.

§ 87(2)(b) whom § 87(2)(b) stated was in the hallway with him, has not responded to the CCRB’s contact attempts (see Investigative Actions).

§ 87(2)(g)

Allegation H – Abuse of Authority: Sgt. Michael Dicecco refused provide his name to

§ 87(2)(b)

Allegation I – Abuse of Authority: PO Jose Tabora refused to provide his name to § 87(2)(b)

Allegation J – Abuse of Authority: PO Genaro Barreiro refused to provide his name to

§ 87(2)(b)

Allegation K – Abuse of Authority: An officer refused to provide his name to § 87(2)(b)

§ 87(2)(b) alleged that she had asked the four officers who had entered her bedroom for their names and their shield officers, but that all of these officers ignored her request and continued searching (Board Review 01).

Of the officers interviewed, only three, Sgt. Dicecco , PO Tabora, and PO Barreiro, admitted to entering the apartment. Of these three, only Sgt. Dicecco admitted to entering a bedroom. Sgt.

Dicecco, PO Tabora, and PO Barreiro all stated that they did not hear any of the civilians in the apartment ask them for their name or their shield number (Board Review 07, Board Review 08, and Board Review 14). The investigation has been unable to identify any of the other officers who entered.

As § 87(2)(b) had been removed from the apartment at this time, he would not have been able to hear § 87(2)(b) make this request in her bedroom.

§ 87(2)(g)

Allegation L – Abuse of Authority: An officer damaged § 87(2)(b)'s property.

Both § 87(2)(b) and § 87(2)(b) reported that their apartment door was damaged as a result of officers banging and kicking at the door (Board Review 01 and Board Review 02). However, both only discovered this after returning to their apartment after the incident, and did not see the actual damage being done. § 87(2)(b) had been sleeping in her bedroom at the time of the entry, and § 87(2)(b) was inside the apartment and could not see which officers were banging or kicking at the door. Neither civilian made mention of hearing any sounds indicating that the locks were being tampered with.

§ 87(2)(b) explained that the door has three sets of locks, but that two have ceased to work after the incident. The weather strip was almost torn off and had to be taped down. The bottom rail was bent inward, and the door cannot be closed properly. In order to open the door, one would have to pry it open with a flathead screwdriver. Photographs were taken of § 87(2)(b)'s door showing the tape on the weather strip (Board Review 25 and Board Review 26). In a follow-up statement on November 2, 2015, § 87(2)(b) said that she has sought repairs but that her door remains in the same condition (Board Review 27).

Sgt. Dicecco, PO Tabora, PO Barreiro, and PO Pelinku, the four officers whom the investigation determined were at the door at the time, denied damaging the door and did not see any appreciable change in the door's condition from the start to the end of the incident. Sgt. Dicecco admitted to banging on the door for several seconds before someone inside opened the door (Board Review 07). PO Barreiro and PO Pelinku both admitted to knocking on the door as well, but both denied trying to unlock the door or tamper with the locks in any way (Board Review 08 and Board Review 13). PO Tabora did not knock on the door, and did not remember who did (Board Review 14). All officers denied kicking at the door.

§ 87(2)(g)

§ 87(2)(g)

Allegation M – Other Misconduct: There is evidence suggesting Sgt. Michael Dicecco provided a false official statement in violation of PG 203-08.

The investigation has found that Sgt. Dicecco made various claims in his statement that were either unsupported or directly contradicted by other testimony. In particular, Sgt. Dicecco claimed that he spoke with the complainant at § 87(2)(b) and participated in the canvass of the suspects, following behind PO Venditti's car (Board Review 07). He claimed that the victim affirmed that he saw two males pointing guns at him, and then ran in the direction of § 87(2)(b).

§ 87(2)(g)
PO Venditti explained that he arrived at § 87(2)(b) alone and spoke with the complainant alone. He canvassed the area with the complainant and drove over to § 87(2)(b) by chance, not because the complainant stated that the suspects ran toward § 87(2)(b). He saw Sgt. Dicecco inside § 87(2)(b) but did not interact with him (Board Review 06). § 87(2)(b) stated that he was met by two officers at his home and canvassed with them. The officers happened to drive along § 87(2)(b) where they spotted the males in front of § 87(2)(b). § 87(2)(b) also contradicted Sgt. Dicecco's claim that § 87(2)(b) identified the individuals standing in front of § 87(2)(b) as the suspects prior to the officers' decision to chase the individuals (Board Review 20).

PO Barreiro and PO Pelinku stated that they were the first officers to arrive at § 87(2)(b). They spotted two males and a female, identified by the investigation to be § 87(2)(b) Hospon, and § 87(2)(b) in front of the building, and approached them on their own. Sgt. Dicecco and PO Tabora followed shortly after, meeting PO Barreiro and PO Pelinku in front of the apartment (Board Review 08 and Board Review 13). Neither PO Barreiro nor PO Pelinku saw the complainant, § 87(2)(b) or knew where he was until after § 87(2)(b) and § 87(2)(b) were found.

NYPD Patrol Guide Procedure 203-08, concerning the making of false statements, prohibits officers from intentionally making a false official statement (Board Review 28).

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g) [Redacted]
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[Redacted]

Squad: _____

Investigator: _____
Signature Print Date

Pod Leader: _____
Title/Signature Print Date

Attorney: _____
Title/Signature Print Date